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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/509,308	05/25/2000	JANETTE SUH	08291-435001	7850
26211	7590	10/07/2003	EXAMINER	
FISH & RICHARDSON P.C. 45 ROCKEFELLER PLAZA, SUITE 2800 NEW YORK, NY 10111			MCKANE, ELIZABETH L	
			ART UNIT	PAPER NUMBER
			1744	

DATE MAILED: 10/07/2003

13

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/509,308

Applicant(s)

SUH ET AL.

Examiner

Leigh McKane

Art Unit

1744

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 05 August 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-7 17-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 and 18 is/are rejected.
- 7) ☒ Claim(s) 17, 19 and 20 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 12.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-7 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blanc (U.S. Patent No. 5,635,132) in view of Rombi.

Blanc teaches that a composition containing thymol (6-isopropyl-m-cresol) in an aliphatic solvent can be used to neutralize the allergenic ejecta of dust mites. See col.2, lines 1-11; col.3, lines 63-67; and Abstract. Note that Blanc specifically teaches that the *ejecta* of the dust mite is the allergen and that the desire of the invention is to treat the ejecta, not the dust mite. See col.3, lines 39-40 and col.4, lines 14-16. The composition is sprayed in aerosol form throughout the room to be treated so that it may contact all surfaces within the room including "all the elements of furniture"(col.3, lines 43-56) and specifically, mattresses (col.5, lines 34-36). Although Blanc does not disclose that the dust mites are Der-f and/or Der-p, Rombi discloses that these are the two primary species of house dust mites (page 1, lines 6-11). Therefore, it would have been obvious to one of ordinary skill in the art that the dust mite *allergens* being denatured by the method of Blanc are those created by Der-f and/or Der-p.

Moreover, with respect to treatment of a "textile surface" or "upholstered furniture," it is known that mattresses are covered with a textile surface. Moreover, the definition of "furniture" would obviously include upholstered items, which have a textile surface.

*Allowable Subject Matter*

3. Claims 17, 19, and 20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

*Response to Arguments*

4. Applicant's arguments filed 5 August 2003 have been fully considered but they are not persuasive.

5. Although applicant argues that "Applicants are treating the surface and acarids directly," it is respectfully noted that the independent claims specifically recite a method for deactivating a Der-f and/or Der-p allergen "comprising contacting the allergen." Moreover, in claim 4, it is even stated that "said allergens being associated with faecal particles excreted by said mites." Therefore, no claim requires treatment of the acarids directly. With respect to treating surfaces, the Examiner has pointed to places in Blanc where the treatment of surfaces is detailed.

*Conclusion*


6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Woodfolk et al and Green both teach the use of tannic acid to denature dust mite allergens. However, neither Woodfolk et al nor Green teach or suggest the use of immobilized tannic acid.

Art Unit: 1744

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Leigh McKane whose telephone number is 703-305-3387. The examiner can normally be reached on Monday-Wednesday (7:15 am-4:45 pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert J. Warden can be reached on 703-308-2920. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

  
**Leigh McKane**  
**Primary Examiner**  
**Art Unit 1744**

elm  
September 22, 2003